

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

v.

COOPER J. MORGENTHAU,

Defendant.

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No. 23 Civ. 00022

**JURY TRIAL
DEMANDED**

COMPLAINT

Plaintiff Securities and Exchange Commission (the “Commission”), for its Complaint against defendant Cooper J. Morgenthau (“Morgenthau”), alleges as follows:

PRELIMINARY STATEMENT

1. From at least June 2021 through at least July 2022 (the “Relevant Period”), defendant Morgenthau stole more than \$5 million from his employer, a publicly-traded special purpose acquisition company (“SPAC”), and from investors in two companies that Morgenthau incorporated for the purpose of becoming SPACs. Morgenthau used the stolen funds to cover his personal expenses and his trading in so-called meme stocks and crypto asset securities.

2. Morgenthau was the Chief Financial Officer of African Gold Acquisition Corp. (“African Gold”), a SPAC seeking to acquire a company in the gold mining industry. During the Relevant Period, Morgenthau wired more than \$1.2 million of African Gold’s money to his personal bank and brokerage accounts. He used the money primarily to trade options on meme stocks, *i.e.*, stocks that gained large online and social media followings among retail investors.

3. To avoid detection, Morgenthau doctored African Gold's monthly bank statements by, for example, deleting his unauthorized transactions and overstating the available account balance in any given month by as much as \$1.19 million. Morgenthau then emailed these fabricated bank statements to African Gold's accountants and auditor, along with letters falsely attesting that he was unaware of any fraud at African Gold and that the company had properly recorded in the company's books and records all material transactions. Morgenthau knew that African Gold's accountants and auditor would rely on his falsified bank statements and his false assurances in those letters to prepare financial statements that were incorporated into African Gold's quarterly and annual reports filed with the Commission. Because of Morgenthau's fraudulent scheme, those publicly filed reports contained materially false and misleading statements regarding African Gold's financial condition and other matters. Morgenthau signed those reports and attested to their accuracy in certifications filed with the Commission, while knowing that the reports contained materially false and misleading information because of his own fraud.

4. Morgenthau either spent or lost through securities trading all of the money he stole from African Gold. To cover his losses, Morgenthau raised money by soliciting investors to help launch another series of SPACs: Strategic Metals Acquisition Corp. I and Strategic Metals Acquisition Corp. II (together, "Strategic Metals"). From at least July 2021 through at least July 2022, Morgenthau raised approximately \$4.7 million from investors in Strategic Metals, all of which he misappropriated for himself.

5. Morgenthau deposited some of the money he raised for Strategic Metals into African Gold's bank account in order to conceal his embezzlement from African Gold and its accountants and auditor. For example, Morgenthau deposited more than half a million dollars of

Strategic Metals' funds into African Gold's bank account on December 31, 2021, because he knew that African Gold's auditor would confirm the account balance as of that date, in connection with African Gold's year-end audit. Almost immediately thereafter, Morgenthau began withdrawing the money from African Gold's bank account and used most of it to trade crypto asset securities. Morgenthau periodically deposited just enough money in African Gold's bank account to cover certain essential business expenses, such as fees for the company's lawyers, accountants, and auditor, so that his theft would remain undetected.

6. But by August 2022, Morgenthau had run out of money. The bank accounts for African Gold and Strategic Metals were empty. African Gold vendors refused to perform work for the company, and Morgenthau's scheme was exposed. African Gold fired Morgenthau on August 26, 2022.

7. By knowingly or recklessly engaging in the conduct described in this Complaint, Morgenthau violated, and unless restrained and enjoined will continue to violate, Section 17(a) of the Securities Act of 1933 ("Securities Act") [15 U.S.C. §§ 77q(a)], Sections 10(b) and 13(b)(5) of the Securities Exchange Act of 1934 ("Exchange Act") [15 U.S.C. §§ 78j(b), 78m(b)(5)] and Rules 10b-5, 13b2-1, 13b2-2(a) and (b), and 13a-14 thereunder [17 C.F.R. §§ 240.10b-5, 240.13b2-1, 240.13b2-2(a) and (b), and 240.13a-14].

NATURE OF PROCEEDING AND RELIEF SOUGHT

8. The Commission seeks a permanent injunction against the Defendant, enjoining him from engaging in the transactions, acts, practices, and courses of business of the type alleged in this Complaint; disgorgement of all ill-gotten gains from the unlawful conduct set forth in this Complaint, together with prejudgment interest; civil penalties pursuant Section 20(d) of the Securities Act [15 U.S.C. §77t(d)] and/or Section 21(d)(3) of the Exchange Act [15 U.S.C.

§78u(d)(3)]; an order prohibiting the Defendant from acting as an officer or director of any issuer that has a class of securities registered pursuant to Section 12 of the Exchange Act [15 U.S.C. § 781], or that is required to file reports pursuant to Section 15(d) of the Exchange Act [15 U.S.C. § 78o(d)] and such other relief as the Court may deem just and appropriate.

JURISDICTION AND VENUE

9. This Court has jurisdiction over this action pursuant to Section 22(a) of the Securities Act [15 U.S.C. § 77v(a)] and Sections 21(d), 21(e), and 27 of the Exchange Act [15 U.S.C. §§ 78u(d), 78u(e), and 78aa]. The Defendant has directly or indirectly made use of the means or instrumentalities of interstate commerce, or of the mails, or the facilities of a national securities exchange in connection with the acts, practices, transactions, and courses of business alleged in this Complaint.

10. Venue in this District is proper under Section 22(a) of the Securities Act [15 U.S.C. § 77v(a)] and Section 27 of the Exchange Act [15 U.S.C. § 78aa] because during the Relevant Period, the Defendant lived in this District; African Gold's principal place of business was in this District; Strategic Metals' principal place of business was in this District; and the Defendant's conduct constituting the violations alleged in this Complaint occurred largely in this District.

DEFENDANT

11. **Cooper J. Morgenthau**, 35, is a resident of New York, New York. Morgenthau served as African Gold's CFO from October 2020 until August 26, 2022, when he was fired. Morgenthau is the CFO of Strategic Metals Acquisition Corp. I and Strategic Metals Acquisition Corp II.

RELEVANT ENTITIES

12. **African Gold Acquisition Corp.** is a publicly traded SPAC incorporated in the Cayman Islands with its principal place of business in New York, New York. African Gold's securities are registered with the Commission pursuant to Section 12(b) of the Exchange Act. African Gold is listed on the New York Stock Exchange under the symbols AGAC.U, AGAC, and AGAC.W. African Gold is searching for a company to acquire. According to the terms of its prospectus, African Gold has until March 2, 2023, to acquire a company, absent an extension.

13. **Strategic Metals Acquisition Corp. I ("Strategic Metals I")** is a company incorporated in the Cayman Islands for the purpose of becoming a publicly traded SPAC. Morgenthau is the CFO of Strategic Metals I. Strategic Metals I never completed its initial public offering of securities.

14. **Strategic Metals Acquisition Corp. II ("Strategic Metals II")** is also a company incorporated in the Cayman Islands for the purpose of becoming a publicly traded SPAC. Morgenthau is the CFO of Strategic Metals II. Strategic Metals II never completed its initial public offering of securities.

FACTUAL ALLEGATIONS

15. Cooper Morgenthau was African Gold's Chief Financial Officer from the company's incorporation in October 2020, until he was fired in August 2022. As a SPAC, African Gold has no operations, other than searching for a company to acquire. During the Relevant Period, African Gold's only employees were its Chief Financial Officer (Morgenthau), Chief Executive Officer, and Chief Operating Officer. As a publicly traded company, African Gold is managed by a board of directors.

16. African Gold's stock began trading publicly on the New York Stock Exchange on February 26, 2021. Its initial public offering of securities raised approximately \$414 million from investors, all of which was placed in a trust account to which Morgenthau did not have access. But Morgenthau did have access to African Gold's operating bank account, which immediately after the initial public offering of securities, held approximately \$1.5 million. This money was intended to fund African Gold's efforts to identify and acquire a company in the gold mining industry. As African Gold's CFO, Morgenthau had authority to make deposits into and withdrawals from this bank account to further African Gold's efforts to acquire such a company.

Morgenthau Embezzled African Gold's Funds.

17. On June 4, 2021, Morgenthau transferred \$36,700 from the African Gold operating bank account to one of his personal brokerage accounts to fund trading in meme stocks. Similarly, on June 15, 2021, Morgenthau transferred \$25,000 from the African Gold operating bank account to his own checking account for personal expenses wholly unrelated to African Gold. These were the first in a series of 34 withdrawals that Morgenthau made during June and July 2021, each below a \$50,000 threshold that would have triggered secondary review and approval by an African Gold board member. In all, Morgenthau transferred more than \$1.2 million during this time to his personal bank and brokerage accounts, leaving African Gold with just \$100 in its operating bank account by July 29, 2021.

18. To hide this theft from African Gold and from the company's external accountants and auditor, Morgenthau falsified the company's monthly operating bank account statements, deleting all references to his unauthorized withdrawals and falsifying the month-end balances and

other transactional information.¹ For example, Morgenthau erased \$1,150,200 in unauthorized transfers into his checking and brokerage accounts from African Gold's June 30, 2021 operating bank account statement. Portions of African Gold's actual June 2021 operating bank account statement and Morgenthau's falsified statement are below. Falsified information is highlighted:

Actual June 30, 2021 Bank Statement

Your Full Analysis Business Checking		
for June 1, 2021 to June 30, 2021		Account number: [REDACTED] 2840
AFRICAN GOLD ACQUISITION CORPORATION		
Account summary		
Beginning balance on June 1, 2021	\$1,342,372.29	# of deposits/credits: 0
Deposits and other credits	0.00	# of withdrawals/debits: 37
Withdrawals and other debits	-1,241,069.35	# of days in cycle: 30
Checks	-0.00	Average ledger balance: \$841,663.68
Service fees	-0.00	
Ending balance on June 30, 2021	\$101,302.94	

Falsified June 30, 2021 Bank Statement

Your Full Analysis Business Checking		
for June 1, 2021 to June 30, 2021		Account number: [REDACTED] 2840
AFRICAN GOLD ACQUISITION CORPORATION		
Account summary		
Beginning balance on June 1, 2021	\$1,342,372.29	# of deposits/credits: 0
Deposits and other credits	0.00	# of withdrawals/debits: 8
Withdrawals and other debits	-90,869.35	# of days in cycle: 30
Checks	-0.00	Average ledger balance: \$1,297,043.69
Service fees	-0.00	
Ending balance on June 30, 2021	\$1,251,502.94	

¹ As a SPAC with limited operations and few employees, African Gold did not have an internal finance department and instead outsourced the majority of its financial reporting functions to external accountants during the Relevant Period. Similarly, African Gold did not have an internal audit department and hired an external auditor to conduct all reviews and audits of its financial statements.

Morgenthau Lied to African Gold's Accountants and Auditor.

19. Morgenthau emailed the falsified monthly operating bank account statements to African Gold's accountants each quarter. He did so knowing that the accountants would rely on these falsified statements to generate and maintain African Gold's books and records, and compile the financial statements that the company incorporated into its quarterly and annual reports filed with the Commission and made available to the investing public. As a result, African Gold's books and records contained material errors and omissions, as did the company's financial statements derived from those books and records.

20. Morgenthau also emailed these falsified operating bank account statements to African Gold's auditor, knowing that the auditor would rely on them to conduct quarterly reviews of African Gold's financial statements and an annual audit of those financial statements. In connection with those quarterly reviews and the annual audit, Morgenthau provided several letters to African Gold's auditor falsely attesting that all material transactions "have been properly recorded in the accounting records underlying the . . . financial statements." He further claimed he had "no knowledge of any fraud or suspected fraud affecting the Company involving: a. management; b. employees who have significant roles in internal control; or c. others where the fraud could have a material effect on the . . . financial statements." Morgenthau made these misrepresentations to the auditor in a series of letters dated August 16, 2021; November 22, 2021; April 15, 2022; and May 16, 2022. Every time he made these statements, Morgenthau knew they were false and misleading, and he knew that the auditor would rely on them in reviewing and auditing African Gold's periodic financial statements.

Morgenthau Made False Filings with the Commission.

21. As a publicly traded company whose securities were registered with the Commission, African Gold was required to file periodic reports with the Commission, including annual (Forms 10-K) and quarterly (Forms 10-Q) reports. African Gold was required, among other things, to include financial statements in its quarterly and annual reports that accurately and fairly reflected its financial condition. Once filed, African Gold's periodic reports and accompanying financial statements became available to the investing public.

22. As African Gold's CFO, Morgenthau was responsible for reviewing and approving the company's financial statements and its quarterly and annual reports. Morgenthau signed each of African Gold's quarterly and annual reports before they were filed with the Commission. He also signed certifications under the Sarbanes-Oxley Act of 2002, attesting that, among other things: (a) each report did not include any material misstatements or omissions; (b) each report fairly presented, in all material respects, African Gold's financial condition for that period; and (c) Morgenthau disclosed to African Gold's auditor and the audit committee of African Gold's board of directors any fraud involving management with a significant role in African Gold's internal control over financial reporting. Despite those certifications, Morgenthau knew that African Gold's periodic reports materially misstated the company's financial condition, beginning in the second quarter of fiscal year 2021 (the quarter ended June 30, 2021) and continuing through the first quarter of 2022 (the quarter ended March 31, 2022) and that those material misstatements were the result of Morgenthau's own fraud, which he reported to no one. Moreover, Morgenthau knew that the quarterly and annual reports contained other false statements about African Gold's internal controls, use of working capital, and other matters.

23. Regarding the company's financial condition, for example, African Gold reported in its Form 10-Q for the second quarter of 2021 (the quarter ended June 30, 2021) that it held \$1.3 million in cash that it could use to search for a company to acquire. Because of Morgenthau's theft, however, African Gold held only \$101,303, and thus overstated its cash holdings in its Form 10-Q by more than 1,100 percent. Similarly, in its Form 10-Q for the third quarter of 2021 (the quarter ended September 30, 2021), African Gold reported \$932,771 in cash. But in reality, African Gold held only \$104,371 in cash because of Morgenthau's theft, and thus overstated its cash holdings in its Form 10-Q by more than 793 percent.²

24. During this time, Morgenthau used the money he stole from African Gold primarily to trade options contracts for meme stocks in his personal accounts. His trading strategy was not successful; he quickly lost all of the stolen funds that he invested.

25. Near the end of the fourth quarter of 2021 (quarter ended December 31, 2021), African Gold's bank account should have held \$544,103 according to Morgenthau's falsified operating bank account statements, but in reality the bank account instead held a *negative* balance of \$5,042 because of Morgenthau's theft. Morgenthau knew that African Gold's auditor would confirm directly with the bank the actual account balance as of December 31, 2021, as a part of its year-end audit. Morgenthau also knew that if the auditor discovered that the account was missing more than half a million dollars, his scheme would unravel. So on December 30, 2021, Morgenthau emailed at least seven investors in Strategic Metals, telling them that he "urgently" needed additional funding by the next business day in order for the underwriters to start marketing

² As noted, Morgenthau had drained all but \$100 of African Gold's cash by July 29, 2021. Thereafter he periodically deposited funds that he had fraudulently raised from Strategic Metals' investors into the African Gold bank account in order to cover certain essential business expenses, including payments to African Gold's lawyers, accountants, and other service providers, and thereby prevent discovery of his theft.

the SPACs prior to their initial public offerings of securities. He offered these investors additional founder shares and private placement warrants issued by Strategic Metals if they immediately increased their investments in the SPACs.³ Morgenthau's statements to investors in Strategic Metals about the purpose of these funds were false and misleading. Morgenthau "urgently" needed the investors' money not to start marketing Strategic Metals, but to temporarily cover up his theft from African Gold and deceive its auditor in connection with its year-end audit. Through these false statements, Morgenthau raised approximately \$625,000 from Strategic Metals' investors on December 30 and December 31, 2021. At Morgenthau's direction, investors sent the funds to one of Strategic Metals' bank accounts. Morgenthau immediately transferred the entire \$625,000 from that Strategic Metals account to various personal accounts, and then transferred \$549,145.73 from his personal checking account to African Gold's operating bank account. As a result, African Gold's year-end account balance was \$544,103.39—the exact amount needed to match the year-end balance according to Morgenthau's falsified bank statements. Portions of African Gold's actual December 2021 operating bank account statement and Morgenthau's falsified statement are below. Falsified information is highlighted:

Actual December 31, 2021 Bank Statement

Your Full Analysis Business Checking		
for December 1, 2021 to December 31, 2021		Account number: [REDACTED] 2840
AFRICAN GOLD ACQUISITION CORPORATION		
Account summary		
Beginning balance on December 1, 2021	\$105.31	# of deposits/credits: 1
Deposits and other credits	549,145.73	# of withdrawals/debits: 5
Withdrawals and other debits	-4,902.36	# of days in cycle: 31
Checks	-0.00	Average ledger balance: \$14,072.68
Service fees	-245.29	
Ending balance on December 31, 2021	\$544,103.39	

³ Founder shares refer to Class B shares initially purchased in private placement offerings; they convert to Class A shares (*i.e.*, those issued to the public in an initial offering) if and when the SPAC completes its acquisition of a company.

the African Gold operating bank account ran a negative average balance every month from March 2022 through Morgenthau's termination in August 2022. Throughout this time, Morgenthau continued to falsify bank statements that he provided to African Gold's accountants and auditor in order to hide his theft.

28. As a result, Morgenthau caused African Gold to materially misrepresent its financial condition to investors throughout much of 2021 and well into 2022. Misstatements in African Gold's financial statements relating to its reported cash balance are summarized in the table below.

	Q2 FY 2021	Q3 FY 2021	Q4 FY 2021	Q1 FY 2022
Reported Cash	\$1,251,503	\$932,771	\$544,103	\$432,819
Actual Cash	\$101,303	\$104,371	\$544,103 ⁴	\$(1,761)
Overstatement	\$1,150,200	\$828,400	\$ -	\$434,580
<i>Overstatement as % of Actual Cash (Absolute Value)</i>	<i>1135.4%</i>	<i>793.7%</i>	<i>0.0%</i>	<i>24671.2%</i>

29. Morgenthau also caused African Gold to misrepresent the sufficiency of its working capital to fund its effort to acquire a company by its March 2, 2023 deadline (absent an extension), and the purposes for which it would use its available cash. For example, in African Gold's Form 10-Q for the second quarter of 2021 (the quarter ended June 30, 2021), the company reported that it held approximately \$1.3 million in cash, and that based on its reported cash balance and other factors, "management believes that the Company will have sufficient working capital" to meet its needs for one year or until African Gold acquired a target company. This statement was materially

⁴ As described above, the account held \$544,103 for only one business day before Morgenthau began draining the account on January 3, 2022. The Form 10-K contained other misrepresentations relating to the non-cash balance portion of the financial statements and other matters.

misleading because African Gold had only approximately \$101,300 in cash left at that time, due to Morgenthau's ongoing theft, and that amount was almost certainly insufficient to fund African Gold's ongoing search for a company to acquire by its March 2023 deadline. Moreover, African Gold disclosed that it would use its cash "for paying existing accounts payable, identifying and evaluating prospective [acquisition] candidates, performing due diligence on prospective target businesses, paying for travel expenditures, selecting the target business to merge with or acquire, and structuring, negotiating and consummating the [acquisition]." These were the only permissible uses of African Gold's cash; funding Morgenthau's personal expenses and securities trading was not among them, and therefore Morgenthau's actions rendered this statement to investors materially misleading.

30. Morgenthau caused African Gold to make similar false and misleading statements regarding the sufficiency of its working capital and the purposes for which it would use its cash holdings in Forms 10-Q filed with the Commission for the third quarter of 2021 (the quarter ended September 30, 2021) and the first quarter of 2022 (the quarter ended March 31, 2022).

31. In a series of announcements in late August and September 2022, African Gold reported that its financial statements contained in quarterly reports filed with the Commission for the second and third quarters of 2021 (the quarters ended June 30 and September 30, 2021), its annual report for 2021 (the fiscal year ended December 31, 2021), and its quarterly report for the first quarter of 2022 (the quarter ended March 31, 2022) must be restated and should not be relied upon.⁵ Because Morgenthau stole the majority of African Gold's working capital, African Gold

⁵ African Gold has not yet filed a quarterly report for the second or third quarters of 2022, and has not yet issued any restated financial statements.

had to borrow approximately \$830,000 from its initial private investors in September 2022 in order to fund its operations and continue its search for a company to acquire.

Morgenthau Misappropriated Funds from Strategic Metals' Investors.

32. December 30, 2021, was not the first—or the last—time that Morgenthau lied to investors in Strategic Metals to solicit, obtain, and misappropriate their investments. Most significantly, he misrepresented to numerous investors the purpose for which their investments would be used. Ultimately Morgenthau used all of the money he raised from Strategic Metals' investors—approximately \$4.7 million—to pay personal expenses, fund securities trading (first in meme stocks and later in crypto asset securities) in his personal accounts, and cover up his theft from African Gold.

33. Beginning in July 2021, Morgenthau solicited investors in Strategic Metals, which Morgenthau claimed would likely make initial public offering of securities by late 2021. Strategic Metals never conducted initial public offerings of securities.

34. Investors in Strategic Metals purchased founder shares and private placement warrants in accordance with their investment contracts. Morgenthau represented to investors that Strategic Metals would use their investment as working capital to pay relevant business expenses in connection with, among other things, the initial public offerings of securities and the search for companies to acquire. For example, in a November 18, 2021 email, Morgenthau sent three prospective investors various documents including a draft securities registration statement for Strategic Metals that set forth each category of expenses for which the money raised from the private placement would be used, including those categories of expenses referenced above, and stated: “We do not anticipate any change in our intended use of proceeds” Morgenthau knew these representations were false because he intended at the time he raised the money to use it to fund personal securities trading and to cover up his theft from African Gold. None of these

purposes were identified in any documentation he sent to investors. Two of the recipients of Morgenthau's email invested a total of \$150,000 in Strategic Metals in exchange for founder shares and private placement warrants. The investors transferred the \$150,000 to Strategic Metals' bank account. Morgenthau transferred the money to one of his personal bank accounts almost immediately after it was received.

35. Indeed, Morgenthau generally withdrew any money from the Strategic Metals' bank account as soon as investors deposited it, and he used that money to cover up his theft from African Gold and to fund his personal trading and personal expenses. Morgenthau withdrew money from the Strategic Metals' bank account on the very same day that it was deposited by investors on approximately 10 different occasions, totaling more than \$1.1 million, and separately instructed certain investors to wire money directly to his personal bank and brokerage accounts. When one investor specifically asked Morgenthau whether the investor should be "surprised" that he was wiring money to one of Morgenthau's personal accounts, Morgenthau falsely assured the investor that the account in Morgenthau's name "is dedicated to Strategic Metals – there is no personal activity in this . . . account." To the contrary, Morgenthau used this account and his other personal accounts for numerous types of activities unrelated to Strategic Metals.

36. In total, Morgenthau raised approximately \$4.7 million from more than 50 investors in Strategic Metals between July 2021 and July 2022. Morgenthau misappropriated the entire \$4.7 million, using it to fund personal trading, personal expenses, and temporarily cover up his theft of money from African Gold. Because of Morgenthau's theft, there was no money in any Strategic Metals' bank account by the end of July 2022.

37. By August 2022, Morgenthau used about \$647,000 of the money he stole from Strategic Metals to pay certain African Gold business expenses. Morgenthau either spent or lost through speculative trading all of the remaining stolen funds.⁶

CLAIMS FOR RELIEF

**FIRST CLAIM FOR RELIEF
FRAUD IN THE OFFER OR SALE OF SECURITIES
(Violations of Sections 17(a) of the Securities Act)**

38. Paragraphs 1 through 37 above are re-alleged and incorporated by reference as if fully set forth herein.

39. During the Relevant Period, the founder shares and private placement warrants issued by Strategic Metals Acquisition Corp. I and Strategic Metals Acquisition Corp. II each were securities under Section 2(a)(1) of the Securities Act [15 U.S.C. §77b(a)(1)].

40. By reason of the conduct described above, defendant Morgenthau, in connection with the offer or sale of securities, by the use of the means or instrumentalities of interstate commerce or of the mails, directly or indirectly, acting intentionally, knowingly, recklessly or negligently (i) employed devices, schemes, or artifices to defraud; (ii) obtained money or property by means of untrue statements of material facts or omissions to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; and (iii) engaged in transactions, practices, or courses of business which operated or would operate as a fraud or deceit upon any persons, including purchasers or sellers of the securities.

⁶ In addition to losing misappropriated funds through securities trading, Morgenthau lost a substantial amount of money that he did not misappropriate from African Gold or from investors in Strategic Metals.

41. As a result, defendant Morgenthau violated Securities Act Sections 17(a)(1), (2), and (3) [15 U.S.C. §77q(a)(1), (2), and (3)].

SECOND CLAIM FOR RELIEF
FRAUD IN CONNECTION WITH THE PURCHASE OR SALE OF SECURITIES
(Violations of Section 10(b) of the Exchange Act and Rule 10b-5 thereunder)

42. Paragraphs 1 through 37 above are re-alleged and incorporated by reference as if fully set forth herein.

43. During the Relevant Period, the stock of African Gold Acquisition Corp. and founder shares and private placement warrants issued by Strategic Metals Acquisition Corp. I and Strategic Metals Acquisition Corp. II each were securities under Section 3(a)(10) of the Exchange Act [15 U.S.C. §78c(a)(10)].

44. By reason of the conduct described above, defendant Morgenthau, directly or indirectly, in connection with the purchase or sale of securities, by the use of the means or instrumentalities of interstate commerce or of the mails, or of any facility of any national securities exchange, intentionally, knowingly or recklessly, (i) employed devices, schemes, or artifices to defraud; (ii) made untrue statements of material facts or omitted to state material facts necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading, and (iii) engaged in acts, practices, or courses of business which operated or would operate as a fraud or deceit upon any persons, including purchasers or sellers of the securities.

45. As a result, defendant Morgenthau violated Exchange Act Section 10(b) [15 U.S.C. §78j(b)] and Rules 10b-5(a), (b), and (c) [17 C.F.R. §240.10b-5(a), (b), and (c)] thereunder.

THIRD CLAIM FOR RELIEF
FALSIFICATION OF BOOKS AND RECORDS
(Violations of Section 13(b)(5) and Rule 13b2-1 of the Exchange Act)

46. Paragraphs 1 through 37 above are re-alleged and incorporated by reference as if fully set forth herein.

47. By reason of the conduct described above, defendant Morgenthau knowingly circumvented and/or knowingly failed to implement a system of internal accounting controls, and directly or indirectly falsified and caused to be falsified African Gold Acquisition Corp.'s books, records and accounts as those terms are used in Section 13(b)(2) of the Exchange Act [15 U.S.C. § 78m(b)(2)].

48. As a result, defendant Morgenthau violated Section 13(b)(5) of the Exchange Act [15 U.S.C. § 78m(b)(5)] and Rule 13b2-1 [17 CFR § 240.13b2-1] thereunder.

FOURTH CLAIM FOR RELIEF
FALSE STATEMENTS TO ACCOUNTANTS AND AUDITOR
(Violations of Rules 13b2-2(a) and (b) of the Exchange Act)

49. Paragraphs 1 through 37 above are re-alleged and incorporated by reference as if fully set forth herein.

50. By reason of the conduct described above, defendant Morgenthau, while acting as an officer or director of an issuer:

- a. directly and indirectly, made and caused to be made, materially false and misleading statements, and omitted to state, and caused others to omit to state, material facts necessary in order to make statements made, in light of the circumstances under which they were made, not misleading, to an accountant in connection with audits and reviews of financial statements and the

preparation and filing of documents and reports required to be filed with the Commission; and

- b. directly and indirectly took actions to manipulate, mislead, and fraudulently influence an independent public or certified public accountant engaged in the performance of an audit or review of the financial statements of an issuer that are required to be filed with the Commission, knowing that such action, if successful, could result in rendering the issuer's financial statements materially misleading.

51. As a result, defendant Morgenthau violated Exchange Act Rule 13b2-2(a) and (b) [17 CFR § 240.13b2-2(a) and (b)].

FIFTH CLAIM FOR RELIEF
FALSE CERTIFICATION OF PERIODIC FILINGS
(Violations of Rule 13a-14 of the Exchange Act)

52. Paragraphs 1 through 37 above are re-alleged and incorporated by reference as if fully set forth herein.

53. By reason of the conduct described above, defendant Morgenthau signed the certifications in African Gold Acquisition Corp.'s periodic filings identified above and falsely certified that, among other things: (a) each periodic public filing contained no untrue statement of a material fact and did not omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading; (b) the financial statements and other financial information included in the periodic public filings fairly presented, in all material respects, the financial condition of the company and its cash flows; and (c) Morgenthau disclosed to the company's auditor and the audit committee of the company's

board of directors any fraud that involved management or other employees who had a significant role in the company's internal control over financial reporting.

54. As a result, defendant Morgenthau violated Exchange Act Rule 13a-14 [17 CFR § 240.13a-14].

PRAYER FOR RELIEF

WHEREFORE, the Commission requests that this Court:

A. Permanently restrain defendant Morgenthau, his officers, agents, servants, employees and attorneys, and those persons in active concert or participation with him who receive actual notice of the injunction by personal service or otherwise, from violating Section 17(a) of the Securities Act [15 U.S.C. §§ 77q(a)], Sections 10(b) and 13(b)(5) of the Exchange Act [15 U.S.C. §§ 78j(b), 78m(b)(5)], and Rules 10b-5, 13b2-1, 13b2-2(a) and (b), and 13a-14 thereunder [17 C.F.R. §§ 240.10b-5, 240.13b2-1, 240.13b2-2(a) and (b), and 240.13a-14].

B. Order defendant Morgenthau to disgorge, with prejudgment interest, all ill-gotten gains obtained by reason of the unlawful conduct alleged in this Complaint;

C. Order defendant Morgenthau to pay civil monetary penalties pursuant to Section 20(d) of the Securities Act [15 U.S.C. § 77t(d)] and Section 21(d)(3) of the Exchange Act [15 U.S.C. § 78u(d)(3)];

D. Enter an order barring defendant Morgenthau from acting as an officer or director of any issuer that has a class of securities registered pursuant to Section 12 of the Exchange Act [15 U.S.C. § 781], or that is required to file reports pursuant to Section 15(d) of the Exchange Act [15 U.S.C. § 78o(d)];

E. Retain jurisdiction over this action to implement and carry out the terms of all orders and decrees that may be entered; and

F. Grant such other and further relief as this Court may deem just and proper.

JURY DEMAND

The Commission demands a jury in this matter for all claims so triable.

Respectfully submitted,

**SECURITIES AND EXCHANGE
COMMISSION**

By its attorneys,

/s/ David J. D'Addio

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Dated: January 3, 2023

*Not admitted in the U.S. District Court for the Southern District of New York